

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 21-CR-145 (PAM/LIB)

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
TONY LEE LUSSIER,)
)
Defendant.)

**MOTION TO SUPPRESS
TRIBAL COURT GUILTY PLEA**

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The defendant, Tony Lee Lussier, by and through his attorney, Kyle D. White, hereby moves the Court, pursuant to the Federal Rules of Criminal Procedure, for an Order: Suppressing from use at trial in this case the Defendant's guilty plea entered in Tribal Court and other such relief as the Court deems just and equitable.

The grounds for this Motion are:

1. That according to the discovery from this case, the Defendant pled guilty in tribal court for the same offenses he is presently charged with in federal court. The Government provided the defense with the tribal court criminal complaint and judgment, as well as audio recordings of the tribal court proceedings. The defense asserts that the guilty plea is constitutionally inadequate and invalid to permit its use in this federal proceeding.

2. The recordings of the proceedings indicates that the tribal court asked the Defendant if he understood the maximum sentence and the complaint against him, that by pleading guilty he gives up the right to a jury trial, the right to confront and cross-examine witnesses, the right to call witnesses on his behalf, the right to testify and the Defendant stated that he understood that. The Defendant answered in the affirmative and stated that his guilty plea was voluntary.

3. The defense however asserts that what makes this guilty plea inadequate and therefore invalid consists of the following: There was no advisement of any waiver or understanding that by pleading guilty he was waiving his constitutional right that he was presumed innocent and that it was the burden of the tribal court to prove him guilty of all elements of the alleged crimes pled to. There was no open court reading of the complaint, nor any factual basis provided by the Defendant to support a valid guilty plea in this tribal court proceedings of what he was alleged to have done.

4. The defense also asserts the guilty plea was not knowing and intelligent because there was no advisement or waiver by Defendant that there may be collateral or direct consequences of pleading guilty to the crimes alleged in tribal court – specifically, how such a guilty plea could be used against him in a subsequent federal court proceeding for the same alleged offenses. Taken as a whole, the defense asserts that the guilty plea proceedings were constitutionally inadequate and invalid in violation of the Fifth and Sixth Amendments of the United States Constitution to permit such a guilty plea and conviction to be used against the Defendant in this federal prosecution.

This Motion is based upon all of the records and proceedings herein, and upon any and all oral testimony to be offered at an evidentiary hearing. Defendant specifically seeks to confront and question those attorneys that ineffectively represented the defendant in those tribal court proceedings in order to make an accurate record.

Respectfully submitted,

Dated: March 29, 2022

/S/ Kyle D. White
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